

REMARKS/ARGUMENTS

Claims 2-8, 10-16, 18, 19, 21, 22, 24, 25, 27-33, 35, 37-46, 48, 50-52, 59, 63-72 and 74-90 are pending. Claims 2-8, 10-16, 18, 19, 21, 22, 24, 25, 27-33, 35, 37-46, 48, 50-52, 59, 63-72 and 74-90 are rejected. Claims 6, 14, 22, 25, 35, 46, 68, 82, and 86 are amended herein.

As discussed below, all of the claims are in condition for allowance. **But if after considering this response, the Examiner does not allow all of the claims, then the Applicant's agent formally requests that the Examiner contact him to schedule and conduct a telephone interview before issuing a subsequent office action.**

Rejection of Claims 2-8, 35-46, 48, 50-52, 59, 64, 65 and 68-90

Under 35 U.S.C. § 101

Claim 6

Claim 6 recites "maintaining a record," "receiving a request," and "sending the media content to a device of the user that includes a media player to play the media content." The recitation is tied to a particular machine because the recited steps inherently require particular computer hardware.

The method must be executed on a computer having a data storage apparatus for "maintaining a record." Moreover, the method must be executed on a computer having one or more data communication interfaces capable of "receiving from the user a request for media content," and "sending the media content." A computer having both a data storage apparatus and a communication interface conforms to a statutory category.

Claims 2-5, 7-8

Claims 2-5 and 7-8 are allowable under section 101 by virtue of their dependence from claim 6 and for at least the reasons given for claim 6.

Claim 35

Claim 35 is amended. Claim 35 recites, in part, "playing the pre-recorded media content." The step of playing the pre-recorded media content ties the method to a

specific machine that is configured to play media content. Moreover, playing the pre-recorded media content also includes a physical transformation wherein the machine drives transducers to physically output the media content.

Claims 37-45

(Claim 36 is canceled and will not be addressed.) Claims 37-45 are allowable under section 101 by virtue of their dependence from claim 35 and for at least the reasons given for claim 35.

Claim 46

Claim 46 recites “a computer-readable storage medium,” which is an article of manufacture. Claim 46 is therefore allowable under section 101.

Claim 48

Claim 48 recites “a computer-readable storage medium,” which is an article of manufacture. Claim 48 is therefore allowable under section 101.

Claims 50-52

Claims 50-52 are allowable under section 101 by virtue of their dependence from claim 48 and for at least the reasons given for claim 48.

Claims 59, 64, 65

Claims 59, 64, and 65 are allowable under section 101 by virtue of their dependence from claim 6 and for at least the reasons given for claim 6.

Claim 68

Claim 68 is amended. Claim 68 recites, in part, “providing to the user access to the media content.” The step of providing the user access to the media content inherently ties the method to a particular type of machine having a data communications interface capable of enabling the transmission of the media content to the user.

Moreover, claim 68 recites “providing a media content provider . . . a portion of the subscription fee . . . determined by the number of times the user accesses the media content from the media content provider.” This step inherently requires the machine include a data storage apparatus capable of storing a record of media content accesses by the user.

Thus, claim 68 is tied to a particular computer that includes both a data communications interface and a data storage apparatus, as described above. Being

ties to a particular machine makes claim 68 statutory subject matter and allowable under section 101.

Claims 69-75, 81

Claims 69-75 and 81 are allowable under section 101 by virtue of their dependence from claim 68 and for at least the reasons given for claim 68.

Claims 76-80

Claims 76-80 are allowable under section 101 by virtue of their dependence from claim 6 and for at least the reasons given for claim 6.

Claim 82

Claim 82 is amended. Claim 82 recites, in part, “providing to the user access to the media content.” The step of providing the user access to the media content inherently ties the method to a particular type of machine including a data communications interface capable of enabling access to the media content by the user.

Moreover, claim 82 recites “providing a media content provider . . . a portion of the subscription fee . . . determined by the number of users who have included the media content provider in their subscription plan.” This step inherently requires the machine include a data storage apparatus capable of storing a record of users who have included the media content provider in their subscription plan.

Thus, claim 82 is tied to a particular computer that includes both a data communications interface and a data storage apparatus, as described above. Being tied to a particular machine makes claim 82 statutory subject matter and allowable under section 101.

Claims 83-85

Claims 83-85 are allowable under section 101 by virtue of their dependence from claim 82 and for at least the reasons given for claim 82.

Claim 86

Claim 86 is amended. Claim 86 recites, in part, “providing to the user access to the media content.” The step of providing the user access to the media content ties the method to a particular type of machine including an interface capable of providing the media content to the user.

Moreover, claim 86 recites “providing a media content provider . . . a portion of

the subscription fee . . . determined by the type of media content provided by the media content provider.” This step inherently requires that the machine include a data storage apparatus capable of storing a record of the type of media content provided by media content providers.

Thus, claim 86 is tied to a particular computer that includes both a data communications interface and a data storage apparatus, as described above. Being tied to a particular machine makes claim 86 statutory subject matter and allowable under section 101.

Claims 87-90

Claims 87-90 are allowable under section 101 by virtue of their dependence from claim 86 and for at least the reasons given for claim 86.

Rejection of Claims 3-8, 11-16, 19, 21, 22, 24, 25, 27-30, 32, 33, 35, 37-41, 43-46, 48, 50, 51, 59, 63, 65, 67, 76, 77, 79 and 80 Under 35 U.S.C. § 102(e) Over Murphy (U.S. Pat. No. 6,564,380)

Claim 6

Claim 6 is amended. Claim 6 recites, in part, “determining whether the user qualifies to access a feature of the media player that enhances the playback of the media content by operating on the received media content; and in response to the determination that the user does qualify to access the feature, allowing the user to access the feature of the media player.”

In contrast, Murphy does not disclose a feature that enhances the playback of the media content by operating on received media content, nor does Murphy disclose controlling access to such a feature.

Murphy discloses giving a user, after paying a fee for the use, remote camera controls. [column 13, lines 20-26] However, remote camera controls do not “enhance the playback of the media content by operating on the received media content,” as recited by claim 6. To the contrary, remote cameras are, by definition, remote, not within the device of the user, and do not enhance playback of the media content by operating on the received media content.

It is true that the user in Murphy can manipulate the camera controls at his/her client terminal. However, it is the movement of the cameras (e.g. pan, zoom, focus, and selection of multiple camera positions) external to the client terminal that enhance the playback of the media content; and Murphy does not address enhancement of content which has already been received by the client device. If, for example, Murphy's pan, zoom, focus, etc was performed on a media stream received by the client terminal, such as by panning or zooming a sprite across a larger received field of view or by manipulating a blur function to simulate focus control, then Murphy's controls ("a feature of the media player") may be considered to operate ("enhance the playback of the media content") by operating on the media content only within the device of the user. But in Murphy, the camera controls operate on the media content outside the device of the user and on content which is yet to be received by the client device. I.e., "When the director operates the universal control panel GUI, the linked command code set of the control panel file converts the director's inputs to the GUI into the text command codes that can be sent via Internet and recognized by the controller computer for that type of camera." [column 16, lines 33-37] In other words, the only way Murphy's camera controls apparently operate are by transmitting camera control commands out of the device of the user, across the Internet, to a remote camera controller that operates the remote camera.

Thus, Murphy does not disclose all the limitations of claim 6, and claim 6 is allowable over Murphy.

Claims 3-5, 7-8

Claims 3-5 and 7-8 are allowable by virtue of their dependence from claim 6 and for at least the reasons given for claim 6.

Claim 14

Claim 14 is amended. Claim 14 recites, in part, "determine whether the user qualifies to access a feature of the media player that enhances the playback of the media content by operating on the received media content, and in response to the determination that the user does qualify to access the feature, allow the user to access the feature of the media player." [emphasis added]

Thus, claim 14 is allowable over Murphy for reasons similar to those given for

claim 6.

Claims 11-13, 15-16

Claims 11-13, and 15-16 are allowable by virtue of their dependence from claim 14 and for at least reasons similar to those given for claim 6.

Claim 22

Claim 22 is amended. Claim 22 recites, in part, “determine whether the user qualifies to access a feature of the media player that enhances the playback of the pre-recorded media content; and in response to the determination that the user does qualify to access the feature, allow the user to access the feature of the media player.”

While Murphy discloses providing pre-recorded video [column 13, lines 17-19, “Stored Video”], Murphy does not disclose any “feature of the media player” that enhances the playback of the pre-recorded media.” Apparently, the only thing disclosed by Murphy that could be considered a “feature of the media player that enhances the playback” is remote control of cameras. The only way that remote control of a camera can enhance playback is if the feed is live, such that changes in camera angle, etc. can affect what is captured. Since control of a live camera cannot enhance viewing pre-recorded media content, Murphy does not disclose conditionally allowing access to a feature of the media player that enhances the playback of pre-recorded media content.

Accordingly, Murphy does not disclose all the limitations of claim 22, and claim 22 is allowable over Murphy.

Claims 19, 21, 24

Claims 19, 21, and 24 are allowable by virtue of their dependence from claim 22 and for at least the reasons given for claim 22.

Claim 25

Claim 25 is amended. Claim 25 recites, in part, “receive access to a feature of a media player that enhances the playback of the pre-recorded media content, provided that access to the feature is included in the media subscription level.” [emphasis added]

Claim 25 is allowable for reasons similar to those given for claim 22.

Claims 27-30, 32-33

Claims 27-30 and 32-33 are allowable by virtue of their dependence from claim 25 and for at least reasons similar to those given for claim 22.

Claim 35

Claim 35 is amended. Claim 35 recites, in part, “receiving access to a feature of a media player that enhances the playback of the pre-recorded media content, provided that access to the feature is included in the media subscription level.” [emphasis added]

Claim 35 is allowable for reasons similar to those given for claim 22.

Claims 37-41, 43-45

Claims 37-41 and 43-45 are allowable by virtue of their dependence from claim 35 and for at least reasons similar to those given for claim 22.

Claim 46

Claim 46 recites, in part, “receive access to a feature of a media player that enhances the playback of the received media content.”

Claim 46 is allowable for reasons similar to those given for claim 6.

Claims 48, 50-51

Claims 48 and 50-51 are allowable by virtue of their dependence from claim 46 and for at least reasons similar to those given for claim 6.

Claims 59, 63, 65, 67, 76-77, 79-80

Claims 59, 63, 65, 67, 76-77, 79-80 are allowable by virtue of their respective dependence from claims 6, 14, and 22, and for at least the reasons given for claims 6, 14, and 22.

Rejection of Claims 2, 10, 18, 64 and 66 Under 35 U.S.C. § 103(a) Over Murphy In View Of Sie et al. (U.S. Pub. No. 2003/0126595)

Claims 2, 10, 18, 64, and 66 are allowable over Murphy in view of Sie by virtue of their respective dependence from claims 6, 14, 22, 6, and 22, and for at least the reasons given for those claims.

**Rejection of Claims 31, 42, 52 and 78 Under 35 U.S.C. § 103(a) Over Murphy In
View Of Holtz et al. (U.S. Pat. No. 6,760,916)**

Claim 31

Claim 31 is allowable by virtue of its dependence from claim 25 and for at least reasons similar to those given for claim 22.

Claim 42

Claim 42 is allowable by virtue of its dependence from claim 35 and for at least reasons similar to those given for claim 22.

Claim 52

Claim 52 is allowable by virtue of its dependence from claim 46 and for at least reasons similar to those given for claim 6.

Claim 78

Claim 78 is allowable virtue of its dependence from claim 6 and for at least the reasons given for claim 6.

**Rejection of Claims 68-72, 74-75 and 81-85 Under 35 U.S.C. § 103(a) Over LaRocca
et al. (U.S. Pat. No. 6,314,572) In View Of Baker et al.
(U.S. Pub. No. 2001/0049824)**

Claim 68

Claim 68 recites, in part, “receiving from a user a subscription fee . . . and providing a media content provider . . . a portion of the subscription fee . . . determined by the number of times the user accesses the media content...”

LaRocca discloses subscriptions that “only permit a user to subscribe to particular additional subscription services (extended services) if the user already subscribes to certain other services (base services).” [column 3, lines 32-35]. LaRocca is apparently silent with respect to any payment to content providers or any apportionment of subscription fees between content providers.

Baker discloses a “business model [that] provides program developers or owners with revenue that is proportional to the consumer interest in their works.” [paragraph 0015] Baker gives brief mention to subscription services: “Programs may be free to the

listener or paid for depending on tolerance for sponsor ads and willingness to pay.” However, Baker is apparently silent with respect to any apportionment of subscription fees between content providers.

Baker discloses “each owner of a category ad slot would be allocated revenue equal to the number of listeners of their ad slot times the revenue per listener.” [paragraph 0033] Baker apparently does not disclose any relationship between an owner of a category ad slot and a content provider. Thus Baker does not disclose providing a media content provider . . . a portion of the subscription fee . . . determined by the number of times the user accesses the media content.

Taken together, neither Baker nor LaRocca disclose receiving a subscription fee and providing a portion of the subscription fee to a media content provider. Moreover, Baker and LaRocca do not disclose providing the portion of the subscription fee to the media content provider based on the number of times a user accesses the media content.

Accordingly, Baker and LaRocca, alone and in combination, fail to disclose or reasonably suggest all the limitations of claim 68, and claim 68 is allowable over Baker and LaRocca.

Claims 69, 70-72, 74-75, 81

Claims 69, 70-72, 74-75, and 81 are allowable by virtue of their dependence from claim 68 and for at least the reasons given for claim 68.

Claim 82

Claim 82 recites, in part, “providing a media content provider . . . a portion of [a] subscription fee, wherein the portion is determined by the number of users who have included the media content provider in their subscription plan.”

For reasons described in conjunction with claim 81, Baker and LaRocca, alone and in combination, fail to disclose or reasonably suggest providing a portion of a subscription fee to a media content provider. Moreover, Baker and LaRocca, alone and in combination, fail to disclose or reasonably suggest determining a portion of a subscription fee paid to a media content provider by the number of users who have included the media content provider in their subscription plan.

Accordingly, LaRocca and Baker, alone and in combination, fail to disclose or

reasonably suggest all the limitations of claim 82, and claim 82 is allowable over LaRocca and Baker.

Claims 83-85

Claims 83-85 are allowable by virtue of their dependence from claim 82, and for at least the reasons given for claim 82.

Rejection of Claim 72 Under 35 U.S.C. § 103(a) Over LaRocca et al. In View Of Baker et al. And Further In View Of Peterka et al. (U.S. Pub. No. 2002/0170053)

Claim 72 is allowable by virtue of its dependence from claim 68 and for at least the reasons given for claim 68.

Rejection of Claims 86-90 Under 35 U.S.C. § 103(a) Over Ginter et al. (U.S. Pub. No. 2008/0148056) In View Of Murphy (U.S. Pat. No. 6,564,380)

Claim 86

Claim 86 recites, in part, “providing a media content provider . . . a portion of [a] subscription fee, wherein the portion is determined by the type of media content provided by the media content provider.”

The Examiner has broadly cited large portions of a primary reference “Ginter” that is 316 pages long. The Applicant’s agent has diligently reviewed the entirety of the cited sections and has found no disclosure that appears to relate to claim 86. Moreover, the Applicant’s agent cannot see the purported general disclosure referenced by the Examiner.

Per MPEP 706.02(j):

35 U.S.C. 103 authorizes a rejection where, to meet the claim, it is necessary to modify a single reference or to combine it with one or more other references.

After indicating that the rejection is under 35 U.S.C. 103, the examiner should set forth in the Office action:

- (A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,
- (B) the difference or differences in the claim over the applied reference(s),
- (C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and
- (D) an explanation >as to< why >the claimed invention would have been obvious to< one of ordinary skill in the art at the time the invention was made**.

In the present rejection, the Applicant's agent respectfully suggests that the Examiner has not complied with MPEP 706.02(j) because the broad swath of cited locations obscures whatever disclosure the Examiner wishes to rely on to formulate his rejection. The Examiner has not referred to any relevant teachings in the prior art relied upon. Since the Examiner has not referred to any relevant teachings, he cannot have disclosed the difference in the claim over the applied reference, the proposed modification, or an explanation as to why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made.

Nevertheless, in the interest of progressing to allowance, the Applicant's agent will make an attempt at guessing the Examiner's intent and try to formulate a response:

At the cited locations, Ginter apparently does not disclose providing a media content provider a portion of a subscription fee, as recited by claim 86. Moreover, Ginter apparently does not disclose determining a portion of the subscription fee according to any criterion related to a type of media content provided by a media content provider.

Murphy, in FIG. 6 appears to disclose a menu of subscription plans. Murphy, at column 13, lines 1 – 26, discloses several things; the Applicant's agent would appreciate it very much if the Examiner could narrow down a bit what he was looking at in citing half of column 13. In any event, Murphy does not disclose determining a portion of a subscription fee to be provided to a media content provider based on the type of media content provided by the media content provider.

Accordingly, as can best be ascertained, Ginter and Murphy, alone and in combination do not disclose or reasonably suggest "providing a media content provider .

. . a portion of [a] subscription fee, wherein the portion is determined by the type of media content provided by the media content provider,” as recited by claim 86.

Ginter and Murphy, alone and in combination, do not disclose or reasonably suggest all the limitations of claim 86, and claim 86 is allowable over Ginter and Murphy.

Claims 87-90

Claims 87-90 are allowable over Ginter and Murphy by virtue of their dependence from claim 86, and for at least the reasons given for claim 86. Claims 87-90 may be allowable for other reasons too, but the Applicant’s agent respectfully requests a more specific explanation of how the cited art is being read if the Examiner wishes to maintain the rejection.

In the event additional fees are due as a result of this amendment, the Commissioner is hereby authorized to charge any deficiency of fees submitted herewith, or credit any overpayment, to Deposit Account No. 07-1897.

If the Examiner believes that a telephone interview would be helpful, he is respectfully requested to contact the Applicants' agent at (425) 455-5575.

Dated this 29th day of May, 2009.

Respectfully submitted,

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